



Fast Track Proposed Regulation Agency Background Document

Agency name	Real Estate Appraiser Board
Virginia Administrative Code (VAC) citation	18 VAC 130-20
Regulation title	Real Estate Appraiser Board Regulations
Action title	Amending regulation to comply with USPAP price adjustment
Date this document prepared	November 9, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

18 VAC 130-20-90.1 (Application and Registration Fees) and 18 VAC 130-20-130.B (Fees for Renewal and Reinstatement) of the Real Estate Appraiser Board's (Board) Regulations require that all certified, licensed and trainee real estate appraiser applicants and licensees be assessed a \$21 biennial fee for a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) that is provided to licensees by the Board. This \$21 fee is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant/licensee in accordance with the fee charged by the Appraisal Foundation. The Appraisal Foundation adjusted the fee for each copy of USPAP from \$22 to \$30 on October 1, 2009. The regulations are being amended to comply with this adjustment by changing the biennial USPAP fee for all certified, licensed and trainee real estate appraisers from \$21 to \$30.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Real Estate Appraiser Board reviewed and adopted the final regulations, entitled "Real Estate Appraiser Board Regulations," on August 16, 2011.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-2013 of the Code of Virginia states that the Real Estate Appraiser Board (the Board) "may do all things necessary and convenient for carrying into effect the provisions of this chapter and all things required or expected of a state appraiser certifying and licensing agency under Title 11 of the FIRREA of 1989." The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) was passed by Congress in 1989 as a result of the savings and loan crisis and requires the state licensing of real estate appraisers. FIRREA created the Appraisal Subcommittee (ASC) which monitors and reviews the practices, procedures, activities, and organizational structure of the Appraisal Foundation (TAF). TAF includes the Appraisal Standards Board (ASB). The ASB promulgates the Uniform Standards of Professional Appraisal Practice (USPAP) which are the generally accepted appraisal standards by which appraisals must be performed. USPAP is incorporated into the Board's regulations and can be found at www.appraisalfoundation.org.

Section 54.1-2013 of the Code of Virginia further states that the Board "shall include in its regulations..., provisions for the enforcement of standards of professional appraiser practice."

Section 54.1-2017 of the Code of Virginia states, "Each licensed residential real estate appraiser, certified residential real estate appraiser, and certified general real estate appraiser shall comply with the standards of professional appraisal practice and code of ethics adopted by the Board...."

18 VAC 130-20-170 (Standards of ethical conduct) of the Board's Regulations states in part: "In obtaining a real estate appraiser license and performing a real estate appraisal, a licensee shall comply with each provision of the Uniform Standards of Professional Appraisal Practice Ethics Rule."

18 VAC 130-20-180.D (Standards of professional practice - Development of appraisal) of the Board's Regulations states in part: "In developing a real property appraisal, all licensees shall comply with the provisions of the Uniform Standards of Professional Appraisal Practice (USPAP) in the edition in effect at the time of the reports' preparation."

18 VAC 130-20-180.E (Standards of professional practice – Appraisal report requirements) of the Board's Regulations states in part: "In reporting a real property appraisal, a licensee shall meet the requirements of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation."

18 VAC 130-20-180.F (Standards of professional practice – Reviewing an appraisal) of the Board's Regulations states in part: "In performing a review appraisal, a licensee shall comply with the requirements of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation."

18 VAC 130-20-180.G (Standards of professional practice – Mass appraisals) of the Board's Regulations states in part: "In developing and reporting a mass appraisal for ad valorem tax purposes, a licensee shall comply with the requirements of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation."

18 VAC 130-20-90.1 (Application and registration fees) of the Board's Regulations states in part: "Application fees for a certified general real estate appraiser, a certified residential real estate appraiser, a licensed residential real estate appraiser and an appraiser trainee include a \$21 fee for a copy of the Uniform Standards of Professional Appraisal Practice. This fee is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant in accordance with the fee charged by the Appraisal Foundation."

18 VAC 130-20-130.B (Fees for renewal and reinstatement) of the Board's Regulations states in part: "Renewal and reinstatement fees for a certified general real estate appraiser, a certified residential real estate appraiser, a licensed residential real estate appraiser and an appraiser trainee include a \$21 fee for a copy of the Uniform Standards of Professional Appraisal Practice. This fee is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant in accordance with the fee charged by the Appraisal Foundation."

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Board's Regulations require that all certified, licensed and trainee real estate appraiser applicants and licensees be assessed a \$21 biennial fee for a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) that is provided to licensees by the Board. This \$21 fee is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant/licensee in accordance with the fee charged by the Appraisal Foundation. The Appraisal Foundation adjusted the fee for each copy of USPAP from \$22 to \$30 on October 1, 2009. The regulations are being amended to comply with this adjustment by amending the biennial USPAP fee for all certified, licensed and trainee real estate appraisers from \$21 to \$30.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The Appraisal Foundation, the sole source of USPAP, changed the price it charges state appraiser regulatory agencies for a copy of USPAP from \$22 to \$30 on October 1, 2009. By regulation, the Board must provide each appraiser license applicant and licensee with a new copy of USPAP every two years. The Board only charges its applicants and licensees \$21 every two years for a copy of USPAP. The Board is spending \$9 more than it receives for every copy of USPAP purchased. This proposed regulation should be noncontroversial because all appraisers understand that the Board provides them with a copy of USPAP every two years. In addition, The Appraisal Foundation charges

state regulatory boards a discount price of \$30 for each copy of USPAP, while The Appraisal Foundation charges individual appraisers \$75 for each copy of USPAP.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The Real Estate Appraiser Board's existing regulations are being amended to adjust the fee to cover the actual cost of the copy of USPAP provided by the Board to its licensees. The current regulations list the cost of USPAP at \$21. The proposed regulations will list the cost of USPAP at \$30.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

There appear to be no issues or disadvantages associated with the proposed regulation.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements that are more restrictive than applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No localities will be particularly affected by the proposed regulations.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There is no regulatory flexibility as USPAP promulgates the accepted appraisal standards by which appraisals in Virginia must be performed.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

**Real Estate Appraiser Board
Fiscal Impact of Proposed Regulation**

Summary:

The proposed regulations will increase the Real Estate Appraiser Board application, renewal and reinstatement fees for all certified, licensed and trainee real estate appraiser applicants and licensees by \$9. Each fee currently includes \$21 for the Uniform Standards of Professional Appraisal Practice, as charged by the Appraisal Foundation. The fees in the regulations are being amended to include \$30 for the Standards. The Appraisal Foundation has increased the charge for the Standards from \$22 to \$30 as of October 1, 2009. Once each biennium, every licensee is provided a copy of the Standards. The regulation change will provide sufficient revenue to cover the increase in expenditures of the Board.

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The Board has no other source of income.

Fiscal Impact:

	FY 2012	FY 2013	FY2014	FY2015
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Service Area	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	\$0	\$0	\$0	\$0
Ongoing Costs	\$0	\$0	\$0	\$0
Total Fiscal Impact	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

Description of Costs:

One-Time: No one-time costs are expected as a result of this regulatory change.

Ongoing: No ongoing costs are expected as a result of this regulatory change.

Cost to Localities: No change anticipated.

Description of Individuals, Businesses, or Other Entities Impacted: This regulation change will affect all individual Real Estate Appraiser licensees and may affect some Real Estate Appraisal Businesses. Businesses are only affected if they pay the application, renewal or reinstatement fee for the appraisers who provide their businesses with appraisal services.

Estimated Number of Regulators: As of November 1, 2011, the Board regulates approximately 3,850 individual appraisers and 530 appraisal businesses.

Projected Cost to Regulators: Individual Real Estate Appraiser application, renewal and reinstatement fees will increase \$9 for a two year license period. No economic impact is anticipated beyond the direct impact of the increased cost to become and remain licensed. Increases in fees are not expected to have a significant effect on individuals deciding to become or remain licensed by the Board.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no less burdensome or less intrusive viable alternatives to the proposal.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulation will have no impact on the institution of the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 130-20-90.1		All certified, licensed and trainee real estate appraiser applicants are assessed a \$21 fee for a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) that is provided to licensees by the Board.	The \$21 fee for a copy of USPAP is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant in accordance with the fee charged by the Appraisal Foundation. The Appraisal Foundation adjusted the fee for a copy of USPAP from \$22 to \$30 on October 1, 2009. The regulations are being amended to comply with this adjustment by changing the USPAP fee for all certified, licensed and trainee real estate appraiser applicants from \$21 to \$30.
18 VAC 130-20-130.B		All certified, licensed and trainee real estate appraiser licensees are assessed a \$21 renewal or reinstatement fee for a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) that is provided to licensees by the Board.	The \$21 fee for a copy of USPAP is subject to the fee charged by the Appraisal Foundation and may be adjusted and charged to the applicant in accordance with the fee charged by the Appraisal Foundation. The Appraisal Foundation adjusted the fee for a copy of USPAP from \$22 to \$30 on October 1, 2009. The regulations are being amended to comply with this adjustment by changing the USPAP fee from \$21 to \$30 for all certified, licensed and trainee real estate appraiser licensees who renew or reinstate their license.